

SENATE BILL REPORT

SB 5573

As of February 13, 2009

Title: An act relating to the legal presumption from certification of medical records.

Brief Description: Making health care providers' billing statements admissible.

Sponsors: Senator Franklin.

Brief History:

Committee Activity: Judiciary: 2/11/09.

SENATE COMMITTEE ON JUDICIARY

Staff: Brandon Roché (786-7405)

Background: Washington case law provides that a plaintiff must prove the reasonable value of necessary medical care treatment and services in order to recover health care costs in liability and benefit cases. The plaintiff or the person claiming benefits must call medical providers as witnesses to testify that the treatment provided was necessary for the injuries suffered and that the charges for the treatment were reasonable.

Summary of Bill: A health care provider's certified billing statement is presumed to be the reasonable value of health care treatment. The billing statement is admissible to establish reasonable charges but may be rebutted by a preponderance of the evidence.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: To take doctors or professionals away from their offices for a period of time to testify is time consuming and costly. This eliminates that need. This is a bill that has been submitted before. This is a simple bill that does one thing: once all the other elements of a claim have been established and proven, then the certified billing statements are presumed to be the reasonable and customary value of health care in

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that community. For many years these were considered business records and were allowed in as evidence. In 1997, case law changed it so that the medical providers had to testify to their charges' reasonability. The issue is that a cost is imposed upon the injured person to bring in a medical provider to testify about the cost of their treatments. That's a cost that comes out of the injured person's pocket.

CON: We are opposed to the bill out of concern that this lessens the plaintiffs' burden to prove all the elements of their claim. A significant number of these medical bills are not disputed at all. Where there are disagreements, it ought to be the plaintiffs' burden to prove. This does not eliminate the need to call experts; in the event of rebutting the presumption, there will need to be experts called. We think there's a prospect that this could put many defendants on the hook for the costs. In those rare cases that actually go to arbitration or a jury, the reasonableness of the costs of treatment is usually one of the things in dispute. If you look at your health care billing statements, the amount charged is not necessarily the amount paid. Physicians rarely get reimbursed for the amount they bill; instead they have pre-set fees agreed to with the insurance companies. For this reason, the billing statement is not an accurate reflection of the reasonable and customary charges in the community. Now we will have to have medical experts called into court to explain why the billing statement is not accurate.

Persons Testifying: PRO: Senator Franklin, prime sponsor; Larry Shannon, Washington State Association for Justice.

CON: Mel Sorensen, Washington Defense Trial Lawyers; Tim Layton, Washington State Medical Association; Jean Leonard, State Farm Washington Insurers.